

ORDINANCE NO. CO08.21.01.28.E2

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, AMENDING THE CEDAR PARK CODE OF ORDINANCES CHAPTER 6 SEASONAL, TEMPORARY AND MOBILE BUSINESS AND EVENTS REGARDING SEASONAL BUSINESSES AND SPECIAL EVENTS (OA-20-003); PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City Council of the City of Cedar Park ("City Council") desires to update regulations related to special events; and

WHEREAS, the proposed amendments provide additional clarifications regarding seasonal retail businesses and special events; and

WHEREAS, the proposed amendments promote the health, safety and general welfare of the citizens of Cedar Park; and

WHEREAS, the Cedar Park City Charter Section 2.04 authorizes the Council to zone the City and to pass all necessary ordinances, rules and regulations governing the same under and by virtue of the authority vested in the cities by State statutes; and

WHEREAS, the City Council finds that the proposed amendments to Chapter 6 Seasonal, Temporary and Mobile Business and Events in the best interest of the City and its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS:

SECTION 1. That Chapter 6 Seasonal, Temporary and Mobile Business and Events of the Cedar Park Code of Ordinances be amended as provided in the attached Exhibit A.

SECTION 2. That the provisions of this ordinance are severable and the invalidity of any word, phrase or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

SECTION 3. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given all as required by law.

SECTION 5. This Ordinance shall be and remain in full force and effect from and after the date of approval.


READ AND CONSIDERED ON FIRST READING by the City Council of Cedar Park at a regular meeting on the 14<sup>th</sup> day of January, 2021 at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Cedar Park at a regular meeting on the 28th day of January, 2021, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

CITY OF CEDAR PARK, TEXAS

ATTEST:

  
Corbin Van Arsdale, Mayor

  
LeAnn M. Quinn, TRMC  
City Secretary

APPROVED AS TO FORM  
AND CONTENT:

  
JP LeCompte, City Attorney



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## **EXHIBIT A**

Amendments to Chapter 6 Seasonal, Temporary and Mobile Business and Events are shown in red. Only the text shown in red shall change.

**ARTICLE 6.02 SEASONAL RETAIL BUSINESSES**

**Sec. 6.02.001 General provisions**

- (a) This Article is intended to provide a safe, orderly means for seasonal retail businesses to conduct business within the corporate limits of the city. All regulations of this Article are deemed necessary for the protection of the health, safety and general welfare of the businesses as well as the citizens of the city. Seasonal retail businesses are permitted in GRGB, CS-HC and PS districts.
- (b) Seasonal retail businesses shall be defined as those retail businesses that establish a business within the city for at least five (5) days each week for the period in which the business is in operation.
- (c) A seasonal retail business shall be in operation for a minimum of thirty (30) consecutive days and for maximum of sixty (60) consecutive days per calendar year.
- (d) The sale of used clothing and/or accessories, used furniture, used household and/or sporting goods is prohibited. Examples of seasonal retail businesses permitted under this Article could include Christmas tree sales, or snow cone sales.
- (e) The site is adequately served by utilities and sanitary facilities.

**Sec. 6.02.002 Permit required for seasonal retail businesses**

- (a) A permit issued by the City's building inspections Development Services Department shall be required for any seasonal retail business. Any individual making application for permit approval to conduct a fundraiser seasonal business shall submit a written application to the building official Development Services Director or his/her designee for a permit that shall include:
  - (1) The name and address of the applicant.
  - (2) The application shall show satisfactory written proof of the applicant's authority to represent the organization or sponsor the applicant represents.
  - (3) The name and address of the sponsor, company or organization for whom the applicant represents.
  - (4) The kinds of goods to be sold or services to be offered.
  - (5) The dates of operation and business hours.
  - (6) A layout drawing to scale depicting the location of the event and the traffic access and circulation planned.
  - (7) Evidence that each of the required conditions in this Article has been addressed.
  - (8) No permit shall be issued until such application has been filed with the city for a period of no less than fourteen (14) calendar days.
- (b) Any seasonal retail business shall provide evidence to the city that the following regulations have been met:
  - (1) Written, signed permission from the property owner giving his approval for the seasonal retail business to be conducted on the premises is provided. The permission letter must include the dates, times, and activities of the seasonal retail business that is requesting the permit.
  - (2) Documentation from the owner of the seasonal retail businesses that provides evidence of full insurance coverage, including liability.
  - (3) The establishment of a barrier restricting pedestrian or vehicular traffic from imposing onto the property of any adjacent residential uses. If such barrier is temporary with the business, it shall be removed on or before the last day the business is permitted for operation.

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(c) Seasonal retail businesses shall be permitted only if all of the following site facilities and approved permits are secured for the entire duration of the event:

- (1) Adequate, available off-street parking, calculated at a ratio of 1 per 100 square feet of vendor space, with a minimum 5 spaces required.
- (2) A safe access driveway and traffic circulation plan; approved by the Planning Development Services Department.
- (3) Tent permits, when applicable.
- (4) Electrical permits, plumbing permits, sign permits, and other permits as applicable that are required by code.
- (5) Location and placement of dumpsters, carts and/or barrels for trash and recycling shall be established at a capacity level adequate to keep all such materials within their appropriate containers. Businesses that include food items shall have the containers emptied a minimum of twice weekly. All dumpsters shall be located no closer than twenty (20) from the property line of any residence and at a location not visible from any public street. All containers shall be hauled away no later than one (1) day after the close of business.
- (6) Health permits (food handlers), any other applicable county, state, or federal permits shall be prominently displayed at all times.
- (7) Bathroom facilities for employees/patrons when applicable.
- (8) Handicapped accessibility compliance when applicable.
- (9) Within the GR-GB district, seasonal retail businesses must be located on a site containing a minimum 80,000 sf anchor tenant. If located within thirty (30) feet of a primary entrance of an 80,000, or greater sf anchor, a seasonal business shall be exempt from the 60-day per calendar year limitation established by section 6.02.001(c). An exception to this requirement may be considered by the City Council if determined to be in the best interest of the health, safety and general welfare of the citizens of the City. A person seeking this exception shall submit a letter in writing to the Director of Development Services, stating the reason for the exception request, including the hardship that will result to the applicant, his/her client, or the public if the exception is not granted. In making the determination on whether to grant the exception, the City Council should consider:
  - (A) The character and degree of injury to, or interference with, the health and welfare or the reasonable use of property that is caused or threatened to be caused;
  - (B) The value to the community of the activity for which the exception is sought; and
  - (C) The proximity to residences at which reasonable persons would be disturbed by the proposed business.Council action on the exception request shall occur within 60 days of receipt of the written request. The City Council shall consider each application on the same basis as that used for other similarly situated applicants and shall make each exception decision free from consideration of race, sex, national origin, religion, the content of speech, or any other factors not provided for in this Article.
- (10) One seasonal retail business per property shall be permitted.
- (11) Along with every permit issued under the provisions of this chapter, the permittee shall be issued an acknowledgment of permit certificate that shall be posted in a prominent place at the business. This certificate shall contain the following:
  - (A) Name of the permittee;
  - (B) Name of the business approved by permit;
  - (C) Date of expiration of permit;

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- (D) Permitted hours of operation;
- (E) Signature of the building official or his designee; and
- (F) Signature of the fire marshal or his designee.
- (G) It shall be unlawful for the permittee to engage in his business without having such a certificate in his possession and prominently posted at his business.
- (H) Each permit issued under these provisions shall not be transferable or assignable and shall give to no person other than the permittee, authority to transact any business in the city.
- (I) Each permit required by this ~~a~~Article shall be valid for a period of one calendar year and may be removed by the city for good cause. Any such business that opens without a permit under the regulations of this chapter shall be considered in violation. Any such business that operates without compliance to all the regulations of this chapter shall be considered in violation of this chapter.



## Exhibit A

### ARTICLE 6.03 SPECIAL EVENTS

#### Sec. 6.03.001 Definition

Special event. An event including street fairs, races, runs, arts and crafts shows, carnivals, circuses, rallies, public entertainments, parades, block parties requiring neighborhood road closures, or other events that:

- (1) Interfere with the normal flow or regulation of pedestrian or vehicular traffic; or
- (2) Require City services, including but not limited to, street closure, provision of barricades, parking arrangements, or Police services.

#### Sec. 6.03.002 General regulations

(a) This Article is intended to provide a safe, orderly means for special events to be held within the corporate limits of the City. All regulations of this Article are deemed necessary for the protection of the health, safety and general welfare of the volunteers, members, and their patrons.

(b) The duration of the special event shall not exceed the time period specified on the permit, not to exceed a maximum of nine (9) consecutive days. ~~Exceptions may be made by the Director of Development Services or their designee based on the determination that the exception is in the best interest of the health, safety and general welfare of the citizens of the City.~~

(c) The site of the special event shall be adequately served by utilities and sanitary facilities, which may be provided by the applicant.

(d) A special event for the purpose of selling used clothing and/or accessories, used furniture, used household and/or sporting goods is prohibited.

(e) Special events that require road or lane closure in residential-zoned areas shall not be held within at least twelve (12) calendar days of another event requiring the closure of that same road. Exceptions may be made by the Director of Development Services or their designee based on the determination that the exception is in the best interest of the health, safety and general welfare of the citizens of the City.

(f) A maximum of six (6) events may occur annually at the same property address.

#### Sec. 6.03.003 Exemptions

(a) The following events are exempt from the provisions of this Article:

- (1) Events which are officially hosted by the City;
- (2) Events which are solely confined to property, excluding right-of-way, owned by governmental entities; and
- (3) Funeral processions.

(b) The following events are exempt from special event fees:

- (1) Nonprofit organizations; and
- (2) Other tax exempt entities.

#### Sec. 6.03.004 Permit required for special events

It shall be unlawful for any person to conduct a special event without a valid special event permit from the City unless exempted per section 6.03.003.

#### Sec. 6.03.005 Relationship to City Fire Code

This Article is separate and independent of the requirements of Article 5.01. Events governed by Article 5.01 shall obtain a separate permit under the requirements of that Article, regardless of whether the event is governed by this Article.

#### Sec. 6.03.006 Filing period

An application for a permit under this Article shall be filed within the following filing periods:

- (1) At least thirty (30) calendar days before the date of the special event if City services are

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requested;

- (2) At least fourteen (14) calendar days before the date of all other special events; or
- (3) If the circumstance precipitating the special event occurs within a period of time rendering compliance with the applicable time period requirement pursuant to subsection (1) or (2) herein impossible, a period of time determined by the Director of Development Services or their designee based on the determination that the different period of time is in the best interest of the health, safety and general welfare of the citizens of the City.

### **Sec. 6.03.007 Contents of application**

Any person desiring to conduct a special event in the City shall first file an application for permit with the City's Development Services Department, which application shall include:

- (1) The name, address, telephone number and email address of the applicant;
- (2) If the special event is to be held for or by an organization, the name, address, and telephone number of the headquarters of the organization and name, address, telephone number, and email address of the authorized representatives of such organization;
- (3) If the special event is to be held by or for any other person other than the applicant, a written statement from that other person showing authority to make the application;
- (4) If any portion of the special event, including parking, is to be held on private property, written permission for the holding of the special event or parking from the owner of the property or an authorized representative;
- (5) The name, address, telephone number, and email address of the person who will be the point of contact for the special event and who will be responsible for its conduct;
- (6) A description of planned activities at the special event;
- (7) The dates and times the event will start and terminate;
- (8) The time at which on-site activities in preparation for the event will begin and end;
- (9) The proposed location of parking areas and the number of spaces provided for the special event in accordance with requirements stated in [section 6.03.014](#);
- (10) A layout drawing to scale depicting the location, size and number of stages, seating, tents, awnings, canopies, food service booths, first-aid stations, portable restrooms, or other temporary structures;
- (11) A layout drawing to scale depicting the location of the event and the access for and circulation of traffic in compliance with the standards provided in the Manual on Uniform Traffic-Control Devices (MUTCD);
- (12) The proposed location of entrances and exits and a plan of evacuation in case of emergency, which shall include a plan for directing the arrival of emergency services through the event to the site of the emergency;
- (13) The approximate number of people who will be attending the special event, including the maximum number of people expected at peak times, event staff and performers, if any, and, if applicable, the types of animals that will be involved with the special event;
- (14) If food or beverages will be served or sold, copies of any licenses or permits required by [Article 4.09](#) or [Article 6.06](#) of this Code;
- (15) Copies of any required electrical permits, plumbing permits, or other permits required by this Code of Ordinances;
- (16) A communications plan specifying how applicant will notify the public about the special event, including the number, size, material and location of any planned signage, and, if applicable, start and end times in which amplified sound will occur;
- (17) A copy of a certificate of insurance pursuant to [section 6.03.019](#), herein and as amended;
- (18) A surety bond or cash deposit pursuant to [section 6.03.021](#), herein and as amended;



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- (19) An application fee pursuant to [section 2.200](#) of Appendix A of this Code, as amended;
- (20) If necessary, proof of acquisition of adequate Police services pursuant to [section 6.03.022](#), herein and as amended; and
- (21) Any other information which the City finds necessary under the standards of issuance.

### **Sec. 6.03.008 Denial of application**

A special event permit shall not be issued if:

- (1) The event will require the diversion of a number of Police Officers, fire protection or Emergency Medical Services (EMS) personnel so as to:
  - (A) Unduly interfere with the provision of these services to the City; or
  - (B) Interfere with the efficient response movement of firefighting equipment and services en route to a fire;
- (2) The occurrence of the event is likely to result in injury to persons or property;
- (3) The applicant fails to submit a completed application pursuant to [section 6.03.006](#), herein and as amended;
- (4) The contents of the submitted application do not comply with the requirements of this Article, as amended, this Code, as amended, or State or Federal law;
- (5) The proposed event includes vendors who have not provided evidence that the business is fully insured, including for liability;
- (6) The proposed event conflicts in date, time or location with another special event, parade or assembly for which a permit has already been granted or is being held by the City;
- (7) The proposed event will unduly interfere or disrupt the educational activities of a school when such school is in session;
- (8) The proposed event does not comply with the Americans with Disabilities Act;
- (9) The applicant has previously been convicted of violating this Article;
- (10) The applicant has had a special event permit revoked within the preceding 12 months;
- (11) The applicant has failed to pay any additional costs assessed by the City for a previous special event; or
- (12) The Director of Development Services Department or their designee has determined that the event is not in the best interest of the health, safety, and general welfare of the citizens of the City.

### **Sec. 6.03.009 Notice of denial of application**

If the City denies the application, the City shall notify the applicant of this action stating the reasons for the denial of the permit no fewer than five (5) calendar days before the date of the special event, or as soon as reasonably possible.

### **Sec. 6.03.010 Revocation of permit**

The Director of Development Services Department or their designee may revoke a special event permit if the Director of the Development Services Department or their designee finds:

- (1) The applicant failed to comply with, or the special event violates, any provision stated in this Article, any ordinance of the City, or any other applicable law;
- (2) The applicant made or permitted the making of a false or misleading statement or omission of material fact on an application for a special event;
- (3) The applicant is unable or unwilling to pay any additional fees as may be required by the City to cover the cost of City services related to the special event;
- (4) The applicant failed to provide any additional information requested by the City;
- (5) The event substantially interrupts the safe and orderly movement of traffic near its location or

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route, unless the traffic variances are those pursuant to the issued special event permit; or

- (6) The event is not in the best interest of the health, safety, and general welfare of the citizens of the City.

### **Sec. 6.03.011 Appeal of revocation**

Any person or entity whose permit has been revoked as provided in [section 6.03.010](#), may within, five (5) business days after the receipt of a notice thereof, appeal to the Director of Development Services or their designee for a hearing thereon and the decision of the Director of Development Services or their designee shall be final. If the appeal is filed during the occurrence of the special event, the Director of Development Services or their designee shall hear the appeal as soon as practically possible. Otherwise, the Director of Development Services or their designee shall hear the appeal within ten (10) business days.

### **Sec. 6.03.012 Permit to be maintained on-premises**

The special event permit shall be maintained at all times on the premises, and shall be made available to any Police Officer, Fire Marshal or other authorized City employee or representative, upon request.

### **Sec. 6.03.013 Notice to abutting property owners**

At least ten (10) calendar days prior to the date of the special event, the permittee shall send written notice of the event to each residential property owner, as indicated by the most recently approved municipal tax roll, of real property within three hundred (300) feet of the property on which the special event is proposed. The notice may be served by its deposit in the municipality, property addressed with postage paid, in the United States mail. Block parties requiring road closures that do not require City services are exempt from this requirement.

### **Sec. 6.03.014 Applicant parking requirements**

(a) An applicant shall submit, as part of an application for a special event permit, evidence that sufficient parking will be available to accommodate the projected number of users with a ten percent surplus. The number of spaces deemed sufficient will be determined by the nature of the event, number and age of people attending, including event staff, participants and performers during peak times. If said parking is to be on private property adjacent to the special event, written evidence that the applicant has a right of possession of said property through ownership, lease, license, or other property interest must be provided. When the location is not an established parking area, a plan shall be submitted which will show how the needed parking will be achieved and arranged. The number of parking spaces and layout of parking area, including aisle widths, size of parking spaces and whether parking attendants will be provided, shall be included in the application for permit.

(b) When adequate parking is not available at or immediately adjacent to the site of the special event, off-site parking may be used. Plans shall be submitted which will show how off-site parking and transfer of attendees will be accomplished.

### **Sec. 6.03.015 City authority over parking**

The City shall have the authority, when reasonably necessary as determined by the Police Department, to prohibit or restrict the parking of vehicles along a street or highway or part thereof adjacent to the site of the special event. The City shall post signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.

### **Sec. 6.03.016 Water usage and disposal of wastewater**

(a) Any special event or related activity desiring use of water from the City water system must coordinate with the Public Works Department to obtain a temporary meter. Deposit for the meter and payment for water used shall be in accordance with ordinances of the City.

(b) An applicant shall submit a plan for the disposal of wastewater and the plan shall be approved by the Public Works Department.

### **Sec. 6.03.017 Waste collection and solid waste**

An applicant shall provide for the collection of all solid waste resulting from such special event.

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### **Sec. 6.03.018 Noise regulations**

During the special event, the permit holder shall comply with all applicable noise regulations of the City as set forth in chapter 8, [Article 8.08](#) of this Code.

### **Sec. 6.03.019 Liability insurance**

When a special event is partially or fully contained on City property or City rights-of-way, the applicant for a special event permit shall furnish the City with a certificate of insurance in amounts of not less than \$500,000.00 for one person and \$1,000,000.00 for any one accident. Block parties requiring road closures that do not require City services are exempt from this requirement.

### **Sec. 6.03.020 Indemnification**

When a special event is partially or fully contained on City property, an applicant shall sign an agreement to indemnify and hold harmless the City, its officers, employees, agents, and representatives against all claims of liability and causes of action resulting from injury or damage to persons or property arising out of the special event.

### **Sec. 6.03.021 Surety bond/cash deposit**

(a) When a special event is partially or fully contained on City property, a surety bond or cash deposit in the penal sum of \$2,000.00 shall accompany each application conditioned that no damage will be done to the City property, streets, sewers, trees, or adjoining property and that no paper, litter, or other debris will be permitted to remain upon the City property, streets or upon any private property by the applicant. The surety bond or cash deposit shall be returned to the permittee within ten (10) business days after said special event permit expires upon certification by the City of compliance with all conditions of this Article. In the event the actual cost for policing and cleaning is less than this amount, the remainder shall be refunded to the permittee by the City. In the event that the actual cost exceeds this amount, the permittee shall pay such additional sum to the City within ten (10) business days from the date of notification. Nothing herein shall preclude the City from enforcing any legal or equitable remedy against the permittee in addition to the bond. Block parties requiring road closures that do not require City services are exempt from this requirement.

(b) The Director of Development Services or their designee, shall have the right to lower or waive the surety bond or deposit for nonprofits and tax-exempted entities.

### **Sec. 6.03.022 Police services; additional costs**

(a) The Police Department shall determine whether and to what extent additional Police services are reasonably necessary for the special event for traffic-control and public safety. The Police Department shall base this decision on the size, location, duration, time and date of the special event, and the need to detour or preempt citizen travel and use of the streets and sidewalks. If additional Police services for the special event are deemed necessary by the Police Department, they shall so inform the applicant. The applicant then shall have the duty to secure the Police services deemed necessary by the Police Department.

(b) In the event the City determines, upon a review of the application, that a Special Event may require the special attention and involvement of City personnel or facilities, the City shall so notify the applicant. In such event, prior to the issuance of a special event permit, the applicant and the City shall agree upon the cost of policing, and cleaning, and the closure of roads, and the applicant shall pay that amount to the City upon application. Prior to the issuance of a special event permit, the applicant shall agree in writing to pay any additional costs to the City incurred as a result of the special event within five (5) business days of the date upon which the City informs the permittee of the amount of such additional costs. Nothing herein shall preclude the City from enforcing any legal or equitable remedy against the permittee for recovery of such additional costs.

### **Sec. 6.03.023 Offenses and penalty**

(a) A person commits an offense if they commence or hold a special event without a special event permit or with a special event permit that has expired or been revoked, or occurs in violation of this Article.

(b) Any person who violates the provisions of this Article shall be charged with a class C misdemeanor; and upon conviction shall be fined as provided for in [section 1.01.009](#) of this Code for each day that a violation exists, and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

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- (c) A culpable mental state is not required for the commission of an offense under this Article.
- (d) It is hereby determined that this Article governs fire safety, public health, and sanitation and, therefore, any person violating or failing to comply with any of the provisions of this section shall be subject to the penalty for such type of violation as provided for in section 1.01.009 of this Code.